



ArentFox Schiff LLP

1301 Avenue of the Americas
42nd Floor
New York, NY 10019

212.484.3900 **MAIN**
212.484.3990 **FAX**

afslaw.com

November 7, 2022

VIA ECF

The Honorable Pamela K. Chen
District Court Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East, Chambers N 631
Brooklyn, NY 11201

M. Scott Peeler

Partner | Co-Leader, Government
Enforcement & White Collar
Practice Group

212.484.3909 **DIRECT**
Scott.Peeler@afslaw.com

Re: Securities and Exchange Commission v. Richard Xia, a/k/a Yi Xia, et al.
21-cv-05350-PKC-LCP

Dear Judge Chen:

As you know, I am the Court Appointed Monitor (the “Monitor”) in this Enforcement Action. *See* ECF No. 11-1. I write with respect to Defendants’ Motion for Release of Funds for Payment of Security Guard Services and Berm Maintenance (the “Motion”) filed late Friday afternoon. *See* ECF Nos. 197-199.

I am very concerned about certain misstatements in the Motion that create the appearance that I and the SEC consent to Defendants’ request regarding the retention of a security guard. *See* ECF No. 199.

As I wrote last week in my most recent Quarterly Report, we had been working collaboratively with Defendants to address a number of site security issues, including work “to identify, screen, and assess reputable companies that provide 24/7 security guard service protection for Eastern Mirage.” *See* ECF No. 196 at 3. Although I agreed that a security guard should be retained, I raised well-founded questions regarding DynamiX Energy’s qualifications and business operations,¹ and I was never informed of the proposed use of Security USA Inc. as a sub-contractor. The Defendants were informed of my concerns and our decision to draft a motion to retain Kings Security Services, Inc., a company to which Defendants acknowledge they consented, and that I was discussing with the SEC at the time of Defendant’s Motion. At no time did I consent to retaining DynamiX Energy nor did I ever state that the SEC had so consented.

¹ These concerns include but are not limited to DynamiX Energy’s credentials and licensure, insurance coverage, work authorization paperwork for its personnel, proper payment of taxes, and proper payment to the security guards for work performed.



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I will submit a formal response to the Motion addressing these and other issues along with a cross-motion as soon as possible.

Respectfully,

M. Scott Peeler

cc: All counsel by ECF